

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 58194

Petitioner:

LINDA WEIXELMAN,

v.

Respondent:

**LARIMER COUNTY BOARD OF
COMMISSIONERS.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on April 30, 2012, Diane M. DeVries and James R. Meurer presiding. Petitioner was represented by Gary Weixelman, agent for Linda Ann Weixelman. Respondent was represented by Linda K. Connors, Esq. Petitioner is protesting the 2009 and 2010 classification of the subject property.

Respondent's motion to dismiss the classification protest for tax year 2009 was granted by the Board.

Subject property is described as follows:

**4318 Green Mile Drive, Laporte, CO
Larimer County Schedule No. R1626431**

The subject property consists of a 34.78 acre parcel of land located just north of Laporte, Colorado. The parcel is accessed via a short dirt road that connects the subject to US Highway 287. No utilities are currently extended to the site. The property was originally a tract of 44.479 acres; however, in 2003 a plat was recorded splitting the original parcel into one 10 acre lot containing a house, and the vacant subject parcel. This plat contained a restriction that no further construction of a principal building (e.g. residence) would be allowed without completing and submitting a subdivision application to Larimer County for approval.

Petitioner is requesting an agricultural classification for the subject property for tax year 2010. Mr. Weixelman testified that the subject is not eligible for a building permit since a subdivision application has not been submitted and approved; therefore no principal building

could be constructed on the site. Mr. Weixelman further testified that the property has historically been used two to four months each year for the grazing of horses and will be continued to be used for agricultural purposes and that there are farm leases in existence.

Ms. Jody Masters, Appraiser for the Larimer County Assessor's Office, presented her report on valuation of the subject property and testified to the basis of the vacant land classification.

Relative to valuation, Ms. Masters presented an appraisal referencing five comparable sales to support her opinion of market value. The sales ranged in price from \$154,000.00 to \$210,900.00 prior to any adjustments and from \$140,400.00 to \$182,500.00 subsequent to adjustments. All of the sales were vacant land parcels located in the same general area as the subject. The major adjustments to the sales included sale date (time), well, access and location, and permit readiness. The adjustment for permit readiness addressed the necessary subdivision approvals for the subject. Ms. Master's final estimate of value for the subject was \$142,000.00 with equal emphasis on all of the sales.

In terms of classification, Ms. Masters testified that the property was never classified as agricultural and that the parcel is located in a transition area between the City of Fort Collins and unincorporated rural areas of the county. Ms. Masters further testified that the parcel did not meet the agricultural test of monetary profit and the construction of a residence could occur with the proper approvals.

Respondent classified the subject property as vacant land for tax year 2010. Petitioner's agent agreed with the value of \$142,000.00 for the subject property; however, did not agree with the vacant land classification.

The statutory definition of "agricultural land" is "a parcel of land...that was used the previous two years and presently is used as a farm or ranch...or that is in the process of being restored through conservation practices." Section 39-1-102(1.6)(a)(I), C.R.S. The statutory definition of "ranch" is "a parcel of land which is used for grazing livestock for the primary purpose of obtaining a monetary profit." Section 39-1-102(13.5), C.R.S; *see also Douglas County Board of Equalization v. Clarke*, 921 P.2d 717, 721 (Colo. 1996).

After careful consideration of the testimony and exhibits presented at the hearing, the Board concludes that Respondent presented sufficient probative evidence and testimony to show that the subject property was correctly classified for tax year 2010. The parcel historically was classified as vacant land, it is located in an area of transition, buildings are possible with proper approvals, and no evidence was provided that the parcel meets the statutory definition of agricultural land.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 3rd day of May, 2012.



BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

James R. Meurer

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

Milla Crichton